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OFFICE OF PETITIONS

In re Application of	:	
Usuba, et al.	:	DECISION
Application No. 09/589,526	:	ON PETITION
Filed: June 7, 2000	:	
Attorney Docket No. 16869P-008300US	:	
For: TRANSMISSION EQUIPMENT FOR	:	
NETWORK AND NETWORK TRANSMISSION	:	
SYSTEM	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2005 (certificate of mailing date June 1, 2005), to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to properly reply to the final Office action, mailed March 24, 2004, which set an extendable three month period for reply.

On June 25, 2004 (certificate of mailing date June 22, 2004), applicants filed an amendment after final in response to the March 24, 2004 final Office action. On November 3, 2004, the Office mailed an Advisory Action informing applicants that the June 25, 2004 reply did **not** place the application in *prima facie* condition for allowance. The application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on June 1, 2005.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application.;

- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

Petitioners are reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

Petitioners' amendment after final submitted with the instant failed to eliminate all of the Examiner's rejections. Please find enclosed a courtesy copy of the Advisory Action Before the Filing of an Appeal Brief that addresses the June 9, 2005 amendment after final. The application remains abandoned.

Petitioners must submit an acceptable reply to the March 24, 2004 final Office action before the application will be revived.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record. Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.



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Office of Petitions

cc: STEVE Y. CHO
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enclosure: courtesy copy of the Advisory Action Before the Filing of an Appeal Brief